

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA, )  
Plaintiff, ) Case No. 4:18-cv-774  
v. )  
WILLIAM E. PHILLIPS, III; )  
MICHELLE V. PHILLIPS, a/k/a S. VELAYO )  
and MICHELLE PHILLIPS; )  
245 GYPSY, LLC; and )  
MAHONING COUNTY, )  
Defendants. )  
\_\_\_\_\_  
)

**COMPLAINT**

The United States of America, pursuant to 26 U.S.C. §§ 7401, 7402, and 7403, with the authorization of a delegate of the Secretary of the Treasury and at the direction of a delegate of the Attorney General of the United States, brings this civil action to reduce to judgment certain unpaid federal tax liabilities of William E. Phillips, III, and to enforce federal tax liens on a parcel of real property, identified below. In support of this action, the United States alleges as follows:

**Jurisdiction, Venue, Parties, and Property**

1. Jurisdiction over this action is conferred upon this Court under 28 U.S.C. §§ 1331, 1340, and 1345, and 26 U.S.C. §§ 7402 and 7403.
2. Venue is proper under 28 U.S.C. §§ 1391(b) and 1396, because Defendant William E. Phillips, III (“Phillips”), resides within the judicial district, the Property lies within the judicial district, and the tax liabilities at issue arose within the judicial district.
3. Plaintiff is the United States of America.

4. Defendant Phillips resides in Youngstown, Ohio, within the jurisdiction of this Court.

5. Defendant Michelle V. Phillips, also known as S. Velayo and Michelle Phillips, is named as a defendant pursuant to 26 U.S.C. § 7403(b) because she may claim an interest in the Property.

6. Defendant 245 Gypsy, LLC, a sham corporation, is named as a defendant pursuant to 26 U.S.C. § 7403(b) because it may claim an interest in the Property. On information and belief, Phillips is the sole member of 245 Gypsy, LLC.

7. Defendant Mahoning County is named as a defendant pursuant to 26 U.S.C. § 7403(b) because it may claim an interest in the Property.

8. The real property that is the subject of this action is located at 245 Gypsy Lane, Youngstown, Ohio 44504-1857 (the “Property”), within the jurisdiction of this Court, and is legally described as follows:

Situated in the City of Youngstown, County of Mahoning, and State of Ohio:

And Known as City Lot 38897 according to the latest enumeration of lots in said City, as shown by the recorded plat of said Subdivision in Volume 20 of Maps, Page 82, Mahoning County Records.

Parcel No. 530140091000

9. On May 2, 2008, at Volume 5755, Page 528, the Mahoning County Recorder recorded a general warranty deed reflecting the transfer of the Property from Elizabeth E. Gurley to Phillips.

#### **The Fraudulent Scheme and Refund, and Subsequent Criminal Case**

##### **A. *The Fraudulent Scheme***

10. Phillips, along with his co-conspirators Steven Hinz, Heather English, and

Patricia Polk, engaged in a scheme (“OID scheme”) to defraud the United States via the tax system.

11. Hinz and English concocted a scheme to claim large income tax refunds for taxpayers based on fraudulent documents. They falsified Forms 1099-OID, Original Issue Discount, to make it appear that financial institutions or other entities had withheld large amounts of federal income tax from investment income on behalf of taxpayers. In fact, that investment income did not exist, the withholding had not occurred, and the identified entity (if it existed) had not issued a Form 1099-OID to the taxpayer seeking a refund. Hinz and English then prepared and filed with the Internal Revenue Service (“IRS”) false federal income tax returns based on the fictitious withholding, which claimed large refunds to which the taxpayers were not entitled. *See Indictment, United States v. Steven R. Hinz et al.*, Case No. 4:11-cr-00586-PAG, Dkt. No. 1, at ¶ 9-25 (N.D. Ohio Dec. 14, 2011).

12. On or about March 12, 2009, Phillips filed his 2008 tax return with the IRS, in which he fraudulently claimed withholding credits of \$232,776 and fraudulently claimed entitlement to a refund of \$95,511, based on the OID scheme described above.

13. On or about March 27, 2009, Phillips received from the IRS an income tax refund of \$85,209 via direct deposit into his business checking account. The next day, he issued checks totaling twenty percent of this refund to Hinz and English.

14. On or about April 3, 2009, Phillips withdrew \$65,000 from his checking account.

***B. Phillips’s Transfer of Record Title to the Property Out of His Name***

15. On February 11, 2009, or approximately one month before filing his false 2008 tax return, Phillips purported to transfer record title to the Property to an entity called 245 Gypsy, LLC, by quitclaim deed recorded at Volume 5791, Page 857, with the Mahoning County

Recorder.

16. The entity 245 Gypsy, LLC, was incorporated by Hinz on August 4, 2008, as a domestic corporation with the Ohio Secretary of State. Hinz was, and remains, listed as the registered agent for 245 Gypsy, LLC.

17. On information and belief, Phillips is the sole member of 245 Gypsy, LLC, which is a sham corporation created to avoid tax liability.

18. The quitclaim deed recorded with the Mahoning County Recorder lists 245 Gypsy, LLC's address as the Property's address. The quitclaim deed was signed by Phillips and also by one "S Velayo AKA Michelle Phillips." Patricia Polk notarized the purported deed.

19. To avoid having to pay a real estate conveyance fee for the quitclaim deed, Phillips completed a Statement of Reason for Exemption from Real Property Conveyance Fee form for the Mahoning County Auditor, supported by an Affidavit In Support of Exempt Transfers. He and "S. Velayo AKA Michelle Phillips" signed these documents under oath or penalty of perjury. The Statement of Reason is attached as Exhibit 1, and the Affidavit is attached as Exhibit 2.

20. On the Statement of Reason form, Phillips indicated that no conveyance fee was required because "the real property is transferred . . . To or from a person when no money or other valuable and tangible consideration readily convertible into money is paid or to be paid for the real estate and the transaction is not a gift[.]" Phillips also stated on the form that the Property would continue to be his principal residence on January 1 of the next year.

21. In the supporting affidavit, Phillips wrote that that the "Property is transferred to rid owner of any liabilities and no money was exchanged in the transfer." He also wrote that "[t]he property is being transferred as exempt solely in order to avoid liability."

22. After being contacted by the IRS, on April 22, 2009, Phillips filed a UCC Financing Statement with the Mahoning County Recorder that purported to indicate that the Property was collateral for a debt owed to him by 245 Gypsy, LLC.

***C. Criminal Prosecution of Phillips and His Co-Conspirators***

23. Hinz, English, Polk, and Phillips were all indicted in the United States District Court for the Northern District of Ohio for their roles in the OID scheme. *See United States v. Hinz et al.*, Case No. 4:11-cr-00586-PAG, Dkt. No. 1 (N.D. Ohio Dec. 14, 2011).

24. For his part in the OID scheme, Phillips pleaded guilty to one count of conspiracy to defraud the United States in violation of 18 U.S.C. § 371. He was sentenced to twelve months and one day in prison, followed by three years of supervised release. The Court ordered Phillips to pay the IRS \$107,518.00 in restitution. *See Amended Judgment in a Criminal Case, Hinz*, Case No. 4:11-cr-00586, Dkt. No. 128 (N.D. Ohio Feb. 5, 2013).

25. Based on the Court's order, the IRS made a restitution-based assessment against Phillips of \$107,518.00. This assessment is separate from the tax assessment against Phillips, which is described in more detail below in Count I.

26. The three other defendants, Hinz, English, and Polk, also pleaded guilty to the counts against them in the criminal indictment. *See Hinz*, Case No. 4:11-cr-00586, Dkt. Nos. 118, 125, 132.

27. Hinz was sentenced to 108 months in prison and ordered to pay \$544,582.54 in restitution. *See Judgment in a Criminal Case, Hinz*, Case No. 4:11-cr-00586, Dkt. No. 125, at 1-2, 5 (N.D. Ohio Feb. 1, 2013). He is scheduled to be released from prison in December 2019.

28. English was sentenced to 30 months in prison and ordered to pay \$49,976.44 in restitution. *See Amended Judgment in a Criminal Case, Hinz*, Case No. 4:11-cr-00586, Dkt. No.

132, at 1-2, 5 (N.D. Ohio Feb. 8, 2013).

29. Polk was sentenced to 21 months in prison and ordered to pay \$324,531.00 in restitution. *See Amended Judgment in a Criminal Case, Hinz, Case No. 4:11-cr-00586, Dkt. No. 118, at 1-2, 5 (N.D. Ohio Jan. 24, 2013).*

**Count I: Reduce Phillips's Unpaid Tax Liabilities to Judgment**

30. On the dates, in the amounts, and for the taxable periods set forth below, a delegate of the Secretary of the Treasury made assessments against Phillips for federal income taxes, penalties, and interest, which have balances due after accounting for all payments, credits, and abatements, and with accruals and costs as of March 23, 2018, as follows:

Tax Period	Assessment Date	Assessment Type	Assessed Amount	Unpaid Balance as of 03/23/2018
2008	04/06/2009	Tax	\$59,844.00	\$239,961.46
	04/16/2009	Tax	\$153,839.00	
	04/16/2009	Interest	\$16.86	

31. On or about the dates of the tax assessments described in paragraph 30, above, a delegate of the Secretary of the Treasury gave notice of those liabilities to, and demanded payment of the balance due from, Phillips.

32. Despite such notice and demand, Phillips has failed, neglected, or refused to pay the federal income tax liabilities set forth above in full and, after taking into account all abatements, payments, credits, costs, and accruals, Phillips remains liable to the United States for the unpaid balance due for his federal income tax liabilities in the amount of \$239,961.46, plus interest and other statutory additions from and after March 23, 2018.

**Count II: Enforce Federal Tax Liens Against The Property**

33. The United States incorporates all previous paragraphs as if fully set forth herein.

34. Pursuant to 26 U.S.C. §§ 6321 and 6322, on the dates of the assessments set forth

in paragraph 30, above, federal tax liens arose in favor of the United States, in an amount equal to the unpaid assessments, plus statutory accruals, upon all property and rights to property belonging to Phillips, including the Property.

35. On May 11, 2009, in accordance with 26 U.S.C. § 6323(f), the IRS filed with the Mahoning County Recorder a Notice of Federal Tax Lien for Phillips's unpaid income tax liabilities for the tax period ending December 31, 2008.

36. On May 15, 2009, in accordance with 26 U.S.C. § 6323(f), the IRS filed with the Mahoning County Recorder a Notice of Federal Tax Lien against 245 Gypsy, LLC as nominee, transferee, fraudulent conveyee and/or alter ego of Phillips for Phillips's unpaid income tax liabilities for the tax period ending December 31, 2008.

37. On February 10, 2014, in accordance with 26 U.S.C. § 6323(f), the IRS filed with the Mahoning County Recorder a second Notice of Federal Tax Lien for Phillips's unpaid income tax liabilities for the tax period ending December 31, 2008.

38. Phillips has resided in and exercised dominion and control over the Property, treated it as if it belongs to him, and has enjoyed the benefits and shouldered the burdens of ownership of the Property, at all times after May 2, 2008.

39. When the federal tax liens arose, the liens attached to the Property because 245 Gypsy, LLC, held record title to the Property as Phillips's nominee or alter ego. 245 Gypsy, LLC, did not give any consideration in exchange for record ownership of the Property. There is a close relationship between Phillips and 245 Gypsy, LLC, because he is the sole member of 245 Gypsy, LLC, and the quitclaim deed lists 245 Gypsy, LLC's address as the same as his address. Phillips has admitted under oath or penalty of perjury that he transferred record title to the Property to 245 Gypsy, LLC, to "avoid liability." Specifically, Phillips transferred the record

title in anticipation of incurring a federal income tax liability via the fraudulent return he filed just one month after the purported transfer.

40. Alternatively, the purported transfer of the Property from Phillips to 245 Gypsy, LLC, was a fraudulent transfer under Ohio law, which should be avoided in favor of the United States, a creditor of Phillips. The transfer was made with actual intent to hinder, delay, or defraud the United States as a creditor of Phillips, within the meaning of Ohio Rev. Code Ann. § 1336.04. Phillips has admitted this fraudulent intent by swearing under oath or penalty of perjury that the transfer was “to rid owner of any liabilities” and to “avoid liability.”

41. The transfer also was a fraudulent transfer under Ohio law because it was made without receiving a reasonably equivalent value in exchange, and Phillips intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as they came due.

42. Facts evidencing Phillips’s actual intent to hinder, delay, or defraud the United States include:

- A. Phillips admitted that the transfer was “to rid owner of any liabilities” and to “avoid liability.”
- B. The transfer was to an insider, a sham corporation over which Phillips had and has control.
- C. Phillips retained possession and control of the Property after the transfer.
- D. The transfer was of substantially all of Phillips’s assets.
- E. The transfer concealed or obscured Phillips’s ownership of the Property.
- F. Phillips did not receive consideration that was reasonably equivalent to the value of the Property. He received no consideration at all.

G. Phillips was or became insolvent shortly after the transfer was made.

H. Phillips made the transfer shortly before incurring a substantial tax liability to the United States.

43. Pursuant to Ohio Rev. Code §§ 1336.04(A)(1)-(2) and 1336.07(A)(1), the United States is entitled to avoid the purported transfer of record title described in paragraph 15.

44. Pursuant to 26 U.S.C. § 7403, the United States is entitled to enforce its liens upon the Property, to have the Property sold at a judicial sale free and clear of all rights, titles, claims, and interests of the parties, including any rights of redemption, and to have the proceeds distributed, after the payment of the costs of sale and any real estate taxes due and owing, as permitted by 26 U.S.C. § 6323(b)(6), to the United States or as otherwise determined by the Court.

WHEREFORE, the plaintiff United States of America requests that this Court:

A. Enter judgment in favor of plaintiff United States of America and against defendant William E. Phillips, III, for unpaid income tax liabilities for the tax year 2008, in the amount of \$239,961.46, plus statutory interest and other additions according to law from and after March 23, 2018, including interest pursuant to 26 U.S.C. §§ 6601, 6621, and 6622, and 28 U.S.C. § 1961(c);

B. Determine that the transfer described above in paragraph 15 is void or voidable, that William E. Phillips, III, has owned the Property since May 2, 2008, and that the federal tax liens described above in paragraphs 34 to 37 attach to the Property;

C. Enforce the federal tax liens and order the entire Property sold, free and clear of all rights, title, liens, claims, and interests of the parties, including any rights of redemption, and distribute the proceeds, after payment of the costs of sale and any real estate taxes due and owing

under 26 U.S.C. § 6323(b)(6), to the United States of America, or as otherwise determined by the Court;

D. Determine that any failure by any defendant named as a party pursuant to 26 U.S.C. § 7403(b), other than any governmental entity holding a lien securing unpaid real property tax under 26 U.S.C. § 6323(b)(6), to timely plead a right, title, claim, or interest in the Property shall result in a default being entered against that party and a default judgment holding that said party has no right, title, claim, lien, or other interest in the Property; and

E. Award the United States of America such further relief, including the costs of this action, that the Court deems just and proper.

Dated: April 5, 2018

Respectfully submitted,

RICHARD E. ZUCKERMAN  
Principal Deputy Assistant Attorney General  
U.S. Department of Justice, Tax Division

/s/ Lauren E. Hume  
LAUREN E. HUME  
Trial Attorney, Tax Division  
U.S. Department of Justice  
P.O. Box 55  
Washington, D.C. 20044  
202-307-2279 (v)  
202-514-5238 (f)  
Lauren.E.Hume@usdoj.gov

## STATEMENT OF REASON FOR EXEMPTION FROM REAL PROPERTY CONVEYANCE FEE

## TYPE OR PRINT ALL INFORMATION

11/22 FOR COUNTY AUDITOR'S USE ONLY

Inst.	Tax Dist. No.	Tax List	Date	Co. No.	Number
			11/09		562

D.T.E. CODE NO.  Split/New Plat Remarks:

Property Located in YOUNGSTOWN, OHIO Taxing District

Name of Tax Duplicate Tax Duplicate Year

Acct. or Permanent Parcel No. 53-014-0-091.0.00 Map Book Page

Description:

LOT NO. 38894

## FOLLOWING MUST BE COMPLETED BY GRANTEE OR HIS REPRESENTATIVE

1. Grantor's Name William E Phillips &amp; Michelle V Phillips Phone Number 330-743-9028

2. Grantee's Name 245 GYPSY LLC Phone Number 330-743-9028

3. Grantee's Address 245 GYPSY LANE YOUNGSTOWN, OHIO 44509

4. Address of Property 245 GYPSY LANE YOUNGSTOWN, OHIO 44509

4. Tax Billing Address 245 GYPSY LANE, YOUNGSTOWN, OHIO 44509

5. No Conveyance fees shall be charged because the real property is transferred:

- (a) To or from the United States, this state, or any instrumentality, agency, or political subdivision of the United States or this state;
- (b) Solely in order to provide or release security for a debt or obligation;
- (c) To confirm or correct a deed previously executed and recorded;
- (d) To evidence a gift, in any form, between husband and wife, or parent and child or the spouse of either;
- (e) On sale for delinquent taxes or assessments;
- (f) Pursuant to court order, to the extent that such transfer is not the result of a sale effected or completed pursuant such order;
- (g) Pursuant to a reorganization of corporations or unincorporated associations or pursuant to the dissolution of a corporation, to the extent that the corporation conveys the property to a stockholder as a distribution in kind of the corporation's assets in exchange for the stockholder's shares in the dissolved corporation;
- (h) By a subsidiary corporation to its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of the subsidiary's stock;
- (i) By lease, whether or not it extends to mineral or mineral rights, unless the lease is for a term of years renewable forever;
- (j) When the value of the real property or interest in real property conveyed does not exceed one hundred dollars;
- (k) Of an occupied residential property being transferred to the builder of a new residence when the former residence is traded as part of the consideration for the new residence;
- (l) To a grantee other than a dealer in real property, solely for the purpose of and as a step in, its prompt sale to others;
- (m) To or from a person when no money or other valuable and tangible consideration readily convertible into money is paid or to be paid for the real estate and the transaction is not a gift;
- (n) To an heir or devisee, between spouses or to a surviving spouse, from a person to himself and others, to a surviving tenant, or on the death of a registered owner;
- (o) To a trustee acting on behalf of minor children of the deceased;
- (p) Of an easement or right-of-way when the value of the interest conveyed does not exceed one thousand dollars;
- (q) Of property sold to a surviving spouse pursuant to section 2106.16 of the Revised Code;
- (r) To or from an organization exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code, such transfer is without consideration and is in furtherance of the charitable or public purpose of the organization;
- (s) Among the heirs at law or devisees, including a surviving spouse of a common decedent, when no consideration is paid for the real property;
- (t) To a trustee of a trust, when the grantor of the trust has reserved an unlimited power to revoke the trust;
- (u) To the grantor of a trust by a trustee of the trust, when the transfer is made to the grantor pursuant to a power to revoke the trust or to withdraw trust assets;
- (v) To the beneficiaries of a trust if the fee was paid on the transfer from the grantor of the trust to the beneficiaries in provisions that became irrevocable at the death of the grantor;
- (w) To a corporation for incorporation into a sports facility constructed pursuant to section 307.696 [30]

6. Has the grantor indicated that this property is entitled to receive the senior citizen, disabled person, or surviving spouse homestead exemption for the preceding or current tax year?  YES  NO. If yes, complete DTE Form 101.7. Has the grantor indicated that this property is qualified for current agricultural use valuation for the preceding or current tax year?  YES  NO. If yes, complete DTE Form 102.8. Application For 2 1/2% Reduction (NOTICE: failure to complete this application prohibits the owner from receiving this reduction until another proper and timely application is filed): Will this property be grantee's principal residence by January 1 of next year?  YES  NO. If yes, is the property a multi-unit dwelling?  YES  NO.

I declare under penalties of perjury that this statement has been examined by me and to the best of my knowledge and belief is a true, correct and complete statement.

A-KA Michelle Phillips

Ex. 5

X William E Phillips III, Jr. /s/

SIGNATURE OF GRANTEE OR REPRESENTATIVE

Q 2/09/09

DATE AUDITOR'S COPY

STATE OF OHIO

COUNTY OF MAHONING

Now comes William E Phillips III & Michelle U Phillips and after being

(Owner or property / properties to be transferred)

first duly sworn, depose and state the property / properties were transferred to

grantor for the following reason: PROPERTY IS TRANSFERREDTO RID OWNER OF ANY LIABILITIESAND NO MONEY WAS EXCHANGED IN THE TRANSFER

The property is being transferred as exempt solely in order to \_\_\_\_\_

AVOID LIABILITY

Pursuant to Revised Code Section 319.202.

Further Affiant Sayeth Naught.


Sworn to and subscribed before me in my presence by WILLIAM E. PHILLIPS & MICHELLE U. PHILLIPS  
on this 10<sup>th</sup> day of February, 2009.
 Patricia Polk, Notary Public  
 State of Ohio  
 Commission Expires November 5th, 2013


  
 Notary Public
Prepared by: WILLIAM E. PHILLIPSAddress: 245 GYPSY, YOUNGSTOWN, OH 44509Phone #: 330-773-9020

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

## DEFENDANTS

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability		<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 345 Marine Product Liability		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 370 Other Fraud		<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 371 Truth in Lending		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 380 Other Personal Property Damage		<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 190 Other Contract		<input type="checkbox"/> 385 Property Damage Product Liability		<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	<b>Habeas Corpus:</b>	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 899 Administrative Procedure
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 865 RSI (405(g))	Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<b>Other:</b>		<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other		
		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		
			FEDERAL TAX SUITS	
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
			<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
			IMMIGRATION	
			<input type="checkbox"/> 462 Naturalization Application	
			<input type="checkbox"/> 465 Other Immigration Actions	

## V. ORIGIN (Place an "X" in One Box Only)

<input type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): \_\_\_\_\_

## VI. CAUSE OF ACTION

Brief description of cause: \_\_\_\_\_

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION  
UNDER RULE 23, F.R.Cv.P.

DEMAND \$ \_\_\_\_\_

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

## VIII. RELATED CASE(S) IF ANY

(See instructions): \_\_\_\_\_

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE \_\_\_\_\_

SIGNATURE OF ATTORNEY OF RECORD

## FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_

APPLYING IFP \_\_\_\_\_

JUDGE \_\_\_\_\_

MAG. JUDGE \_\_\_\_\_

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

I. Civil Categories: (Please check one category only).

1.  General Civil
2.  Administrative Review/Social Security
3.  Habeas Corpus Death Penalty

\*If under Title 28, §2255, name the SENTENCING JUDGE: \_\_\_\_\_

CASE NUMBER: \_\_\_\_\_

II. **RELATED OR REFILED CASES.** See LR 3.1 which provides in pertinent part: "If an action is filed or removed to this Court and assigned to a District Judge after which it is discontinued, dismissed or remanded to a State court, and subsequently refiled, it shall be assigned to the same Judge who received the initial case assignment without regard for the place of holding court in which the case was refiled. Counsel or a party without counsel shall be responsible for bringing such cases to the attention of the Court by responding to the questions included on the Civil Cover Sheet."

This action: is **RELATED** to another **PENDING** civil case is a **REFILED** case was **PREVIOUSLY REMANDED**

If applicable, please indicate on page 1 in section VIII, the name of the Judge and case number.

III. In accordance with Local Civil Rule 3.8, actions involving counties in the Eastern Division shall be filed at any of the divisional offices therein. Actions involving counties in the Western Division shall be filed at the Toledo office. For the purpose of determining the proper division, and for statistical reasons, the following information is requested.

ANSWER ONE PARAGRAPH ONLY. ANSWER PARAGRAPHS 1 THRU 3 IN ORDER. UPON FINDING WHICH PARAGRAPH APPLIES TO YOUR CASE, ANSWER IT AND STOP.

(1) **Resident defendant.** If the defendant resides in a county within this district, please set forth the name of such county

**COUNTY:**

**Corporation** For the purpose of answering the above, a corporation is deemed to be a resident of that county in which it has its principal place of business in that district.

(2) **Non-Resident defendant.** If no defendant is a resident of a county in this district, please set forth the county wherein the cause of action arose or the event complained of occurred.

**COUNTY:**

(3) **Other Cases.** If no defendant is a resident of this district, or if the defendant is a corporation not having a principle place of business within the district, and the cause of action arose or the event complained of occurred outside this district, please set forth the county of the plaintiff's residence.

**COUNTY:**

IV. The Counties in the Northern District of Ohio are divided into divisions as shown below. After the county is determined in Section III, please check the appropriate division.

EASTERN DIVISION

AKRON  
 CLEVELAND  
 YOUNGSTOWN

(Counties: Carroll, Holmes, Portage, Stark, Summit, Tuscarawas and Wayne)

(Counties: Ashland, Ashtabula, Crawford, Cuyahoga, Geauga, Lake, Lorain, Medina and Richland)

(Counties: Columbiana, Mahoning and Trumbull)

WESTERN DIVISION

TOLEDO

(Counties: Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lucas, Marion, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood and Wyandot)

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).

**V. Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.

Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.

**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.

**VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

**VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

UNITED STATES DISTRICT COURT  
for the

\_\_\_\_\_ District of \_\_\_\_\_

\_\_\_\_\_  
Plaintiff )  
 )  
 )  
 ) Civil Action No.  
v. )  
 )  
 )  
\_\_\_\_\_  
Defendant )

**SUMMONS IN A CIVIL ACTION**

To: (*Defendant's name and address*)

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*SANDY OPACICH, CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_; or \_\_\_\_\_

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_; or \_\_\_\_\_

I returned the summons unexecuted because \_\_\_\_\_; or \_\_\_\_\_

Other *(specify):* \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT  
for the

\_\_\_\_\_ District of \_\_\_\_\_

\_\_\_\_\_  
Plaintiff )  
 )  
 )  
 ) Civil Action No.  
v. )  
 )  
 )  
\_\_\_\_\_  
Defendant )

**SUMMONS IN A CIVIL ACTION**

To: (*Defendant's name and address*)

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*SANDY OPACICH, CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_; or \_\_\_\_\_

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_; or \_\_\_\_\_

I returned the summons unexecuted because \_\_\_\_\_; or \_\_\_\_\_

Other *(specify):* \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT  
for the

\_\_\_\_\_ District of \_\_\_\_\_

\_\_\_\_\_  
Plaintiff )  
 )  
 )  
 ) Civil Action No.  
v. )  
 )  
 )  
\_\_\_\_\_  
Defendant )

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*SANDY OPACICH, CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_; or \_\_\_\_\_

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_; or \_\_\_\_\_

I returned the summons unexecuted because \_\_\_\_\_; or \_\_\_\_\_

Other *(specify):* \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT  
for the

\_\_\_\_\_ District of \_\_\_\_\_

\_\_\_\_\_  
Plaintiff )  
 )  
 )  
 ) Civil Action No.  
v. )  
 )  
 )  
\_\_\_\_\_  
Defendant )

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*SANDY OPACICH, CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_; or \_\_\_\_\_

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_; or \_\_\_\_\_

I returned the summons unexecuted because \_\_\_\_\_; or \_\_\_\_\_

Other *(specify):* \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: